

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of)	MB Docket No. 08-214
)	
Herring Broadcasting, Inc. d/b/a WealthTV,)	File No. CSR-7709-P
Complainant)	
v.)	
Time Warner Cable Inc.,)	
Defendant)	
)	
Herring Broadcasting, Inc. d/b/a WealthTV,)	File No. CSR-7822-P
Complainant)	
v.)	
Bright House Networks, LLC,)	
Defendant)	
)	
Herring Broadcasting, Inc. d/b/a WealthTV,)	File No. CSR-7829-P
Complainant)	
v.)	
Cox Communications, Inc.,)	
Defendant)	
)	
Herring Broadcasting, Inc. d/b/a WealthTV,)	File No. CSR-7907-P
Complainant)	
v.)	
Comcast Corporation,)	
Defendant)	
)	
TCR Sports Broadcasting Holding, L.L.P.)	File No. CSR-8001-P
d/b/a Mid-Atlantic Sports Network,)	
Complainant)	
v.)	
Comcast Corporation,)	
Defendant)	

TO: The Honorable Richard Sippel
 Chief Administrative Law Judge

**JOINT STATUS REPORT OF TCR SPORTS BROADCASTING, L.L.P.
D/B/A MID-ATLANTIC SPORTS NETWORK
AND HERRING BROADCASTING, INC. D/B/A WEALTHTV**

TCR Sports Broadcasting Holding, L.L.P., doing business as Mid-Atlantic Sports Network (“MASN”), and Herring Broadcasting, Inc., doing business as WealthTV (“WealthTV”), hereby submit this joint status report.

MASN and WealthTV are submitting this report as a courtesy to this Tribunal and in order to ensure the orderly functioning of the proceedings at the Bureau and of any future proceedings before this Tribunal. For the reasons explained in MASN’s and WealthTV’s Opposition to Defendants’ Emergency Application for Review (“Application”) and Opposition to Defendants’ Emergency Motion for Stay, the *Jurisdiction Order*¹ held that this Tribunal’s authority over these matters has expired. That order has the force and effect of the full Commission. *See* 47 U.S.C. § 155(c)(3). And it is beyond question that this Tribunal does not sit in judgment of legal determinations of the Media Bureau or the Commission. *See* Decision, *Ft. Collins Telecasters*, 103 F.C.C.2d 978, ¶ 7 (Rev. Bd. 1986); Memorandum Opinion and Order, *Atlantic Broad. Co.*, 5 F.C.C.2d 717, ¶ 10 (1966); Memorandum Opinion and Order, *Richard L. Oberdorfer*, 2 FCC Rcd 4464, ¶ 8 n.5 (Rev. Bd. 1987); Memorandum Opinion and Order, *Tequesta Television*, 2 FCC Rcd 41, ¶ 10 (1987); 5 U.S.C. § 556(c). This Tribunal’s views of the legality of the *Jurisdiction Order* thus do not create jurisdiction over the proceedings. Furthermore, Defendants have filed an Application with the full Commission. Unless and until the Commission acts on that Application or the Motion for Stay, these proceedings are within the jurisdiction and authority of the Media Bureau. Therefore, MASN and WealthTV respectfully submit that there are no proceedings currently before this Tribunal on which to report.

¹ Memorandum Opinion and Order, MB Docket No. 08-214, DA 08-2805 (MB Dec. 24, 2008) (“*Jurisdiction Order*”).

MASN and WealthTV nonetheless voluntarily offer the following responses to this Tribunal's inquiries. In doing so, MASN and WealthTV wish to emphasize that all activity between and among the parties ceased in the wake of the *Jurisdiction Order*, confirming that all parties properly understood the legal effect of that order. Because of that, and in light of this Tribunal's request to provide this report promptly, the information here is partial. MASN and WealthTV stand ready to provide any and all information requested by the Media Bureau; should jurisdiction once again be vested in this Tribunal, we shall of course comply with all orders that this Tribunal may issue. With those qualifications, MASN and WealthTV state as follows:

- **Protective Order.** MASN and Comcast have yet to agree on the terms of a protective order. The parties were unable to reach agreement in light of Comcast's unreasonable demands relating to restrictions on expert review. Specifically, negotiations ground to a halt even prior to the *Jurisdiction Order* in view of Comcast's extraordinary demand that MASN's expert agree not to work on any matters involving Comcast for two to three years.

WealthTV and Defendants negotiated back and forth on drafts of protective orders, but no agreement was reached before December 24. Defendants sent WealthTV a further draft on December 26, but there was not a need to continue those negotiations in light of the *Jurisdiction Order* and the Bureau's commitment to take discovery as necessary.

- **Document Discovery.** On December 5, 2008, MASN and Comcast executed a Joint Case Management Statement providing, among other things, for a rolling production of documents beginning on December 22, 2008, and ending on January 12, 2009. MASN and Comcast exchanged document requests on December 5, 2008, and objections thereto on December 15, 2008. By the time of the December 24 *Jurisdiction Order*, Comcast had not produced any documents to MASN other than to transmit a letter listing affiliate agreements from which it wished MASN to choose in partial satisfaction of one of MASN's document requests. By contrast, MASN had by the time of the December 24 *Jurisdiction Order* made two document productions to Comcast totaling roughly 1,500 documents and 5,000 pages. There has been no further exchange of documents in light of the Bureau's *Jurisdiction Order* holding that proceedings before this Tribunal have expired. Moreover, MASN requested that Comcast return the documents already produced, and Comcast complied with that request.

WealthTV and Defendants exchanged discovery requests. Objections have been exchanged, and there has been some negotiation on objections; a few items on the negotiation list remain outstanding. No documents have been produced.

MASN and WealthTV would be happy to provide the Tribunal with the parties' document requests and objections upon request.

- **Deposition Discovery.** During negotiation of a Joint Case Management Statement, MASN and Comcast were unable to agree on whether there would be fact depositions at all. Before the time allotted in the rules for MASN to file a response to Comcast's request for clarification expired, this Tribunal held in its December 22, 2008 order that at least some such depositions would be permitted. No potential witness in the MASN and Comcast matter has been noticed for fact deposition. If the Media Bureau orders such depositions, or if this Tribunal reassumes jurisdiction in the future, MASN expects to notice some or all of the individuals who executed declarations during the earlier proceedings before the Media Bureau and any other individuals, as relevant based on discovery. Under this Tribunal's December 22 order, and in the absence of the Media Bureau's *Jurisdiction Order*, MASN would have expected to set dates for depositions based on witness availability.

Likewise, no notices of fact depositions were exchanged between or among WealthTV and Defendants. The parties were prepared to stipulate that there would not be depositions of fact witnesses.

- **Expert Discovery.** MASN and Comcast exchanged expert identifications on the date specified by this Tribunal in its December 1, 2008 order. The parties' Joint Case Management Statement provides that expert reports will be exchanged on January 26, 2009, and that expert depositions will be taken within two weeks of that exchange. MASN expects to depose Comcast's expert witnesses. However, no expert in the MASN and Comcast matter has yet been noticed for deposition in light of the *Jurisdiction Order*.

WealthTV furnished expert identifications and testimony summaries to Defendants on the dates specified by this Tribunal. WealthTV expects to depose Defendants' expert witnesses. The parties had agreed to date ranges for these depositions as reflected in the jointly submitted draft scheduling order subsequently adopted by this Tribunal.

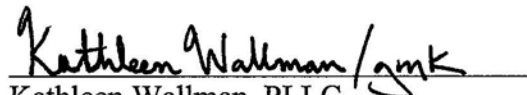
MASN and WealthTV would be happy to provide the Tribunal with the parties' expert identifications (including summaries) upon request.

- **Pending Motions.** The *Jurisdiction Order* of December 24, 2008, held that this Tribunal lacks jurisdiction over the proceedings. Defendants filed an Emergency Application for Review and an Emergency Motion for Stay on December 30, 2008. On January 6, 2008, MASN and WealthTV filed oppositions. The Commission has not yet acted on either motion. Defendants are not permitted to file a reply in support of stay; a reply, if any, in support of the Application is due within 10 days of the oppositions. In addition, because the Media Bureau now has jurisdiction, MASN and WealthTV expect action from the Bureau expeditiously to move the carriage proceedings toward resolution. Unless and until the full Commission acts on the Motion for Stay or the Application, the *Jurisdiction Order* is binding.

In addition, on December 31, 2008, WealthTV and MASN inquired from the Media Bureau what discovery it would conduct. The Bureau has not yet responded to that inquiry.

- **Proposed Procedural and Hearing Dates and Completion of Hearing.** MASN and WealthTV submit that consideration of these issues is not possible because there are no proceedings before the Tribunal. In the event that Defendants secure relief from the full Commission, and this Tribunal is again vested with jurisdiction, MASN and WealthTV would, of course, stand ready to provide any information the Tribunal requires and would look forward to expeditious resolution of the complaints. In such circumstances, MASN and WealthTV submit the proper course would be to adhere to the deadlines previously set to the extent possible. MASN and WealthTV have no dates to propose at this time absent instruction from the Commission that these matters are back before this Tribunal.

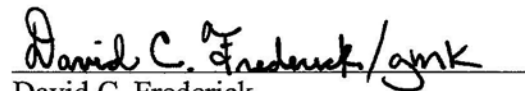
Respectfully submitted,


Kathleen Wallman, PLLC
9332 Ramey Lane
Great Falls, VA 22066
(202) 641-5387

Geoffrey M. Klineberg
Priya R. Aiyar
Derek T. Ho
Kellogg, Huber, Hansen, Todd,
Evans & Figel, P.L.L.C.
1615 M Street, N.W.
Suite 400
Washington, DC 20036
(202)-326-7900

*Attorneys for Herring Broadcasting,
Inc. d/b/a WealthTV*

Dated: January 7, 2009


David C. Frederick
Evan T. Leo
Kelly P. Dunbar
David F. Engstrom
Kellogg, Huber, Hansen, Todd,
Evans & Figel, P.L.L.C.
1615 M Street, N.W.
Suite 400
Washington, DC 20036
(202)-326-7900

*Attorneys for TCR Sports Broadcasting
Holding, L.L.P. d/b/a Mid-Atlantic
Sports Network*

CERTIFICATE OF SERVICE

I, Geoffrey M. Klineberg, hereby certify that, on January 7, 2009, copies of the foregoing

document were served via electronic mail on the following:

Monica Desai (monica.desai@fcc.gov)
Chief, Media Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Matthew Berry (matthew.berry@fcc.gov)
General Counsel
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

The Honorable Richard L. Sippel
(richard.sippel@fcc.gov)
Chief Administrative Law Judge
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

The Honorable Arthur L. Steinberg
(arthur.steinberg@fcc.gov)
Administrative Law Judge
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Kris Anne Monteith (kris.monteith@fcc.gov)
Gary P. Schonmann (gary.schonman@fcc.gov)
Elizabeth Mumaw (elizabeth.mumaw@fcc.gov)
Enforcement Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Jonathan D. Blake (jblake@cov.com)
Gregg H. Levy (glevy@cov.com)
James M. Garland (jgarland@cov.com)
Sarah L. Wilson (swilson@cov.com)
Robert M. Sherman (rsherman@cov.com)
Covington & Burling LLP
1201 Pennsylvania Avenue, N.W.
Washington, DC 20004

J. Christopher Redding
(credding@dowlohn.com)
David E. Mills (dmills@dowlohn.com)
Jason E. Rademacher
(jrademacher@dowlohn.com)
Dow Lohnes PLLC
1200 New Hampshire Avenue, N.W.
Suite 800
Washington, DC 20036

Jay Cohen (jaycohen@paulweiss.com)
Henk Brands (hbrands@paulweiss.com)
Samuel E. Bonderoff
(sbonderoff@paulweiss.com)
Paul Weiss Rifkind Wharton & Garrison LLP
1285 Avenue of the Americas
New York, NY 10011

Arthur H. Harding (aharding@fh-law.com)
Seth A. Davidson (sdavidson@fh-law.com)
Micah M. Caldwell (mcaldwell@fh-law.com)
Fleischman and Harding LLP
1255 23rd Street, N.W., 8th Floor
Washington, DC 20037

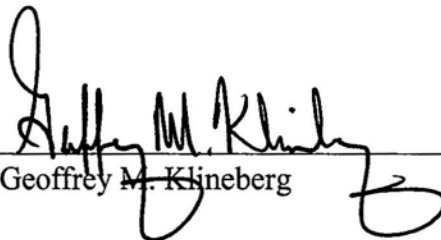
Arthur J. Steinhauser (asteinhauer@sbandg.com)
Cody Harrison (charrison@sbandg.com)
Sabin Bermant & Gould LLP
Four Times Square
New York, NY 10036

James L. Casserly (jcasserly@willkie.com)
Michael H. Hammer (mhammer@willkie.com)
Willkie Farr & Gallagher LLP
1875 K Street, NW
Washington, DC 20006

Michael P. Carroll (michael.carroll@dpw.com)
David B. Toscano (david.toscano@dpw.com)
Davis Polk & Wardwell
450 Lexington Avenue
New York, NY 10017

R. Bruce Beckner (bbeckner@fh-law.com)
Mark B. Denbo (mdenbo@fh-law.com)
Rebecca E. Jacobs (rjacobs@fh-law.com)
Fleishman and Harding LLP
1255 23rd Street, N.W., 8th Floor
Washington, DC 20037

David H. Solomon (dsolomon@wbklaw.com)
L. Andrew Tollin (atollin@wbklaw.com)
Wilkinson Barker Knauer, LLP
2300 N Street, N.W., Suite 700
Washington, DC 20037


Geoffrey M. Klineberg